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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,478	07/16/2003	Robert L. Faulkner	P03-APPER-0049	8624

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EXAMINER
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FERNSTROM, KURT

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/620,478

Applicant(s)

FAULKNER ET AL.

Examiner

Kurt Fernstrom

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3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-35,37 and 38 is/are allowed.
- 6) ☒ Claim(s) 1-26,36 and 39 is/are rejected.
- 7) ☒ Claim(s) 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-26 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of the term "virtually" in claims 1, 13 and 36 renders the claims indefinite, as it is unclear how many breaks or slopes would overcome the limitation of "virtually" none. It appears that applicant is attempting to claim a range of breaks or slopes as part of the invention, without specifying the bounds of the range.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 36 is rejected under 35 U.S.C. 102(b) as being anticipated by Kueng.

Kueng discloses in Figure 1 and in column 3, lines 1-44 of the specification a method of teaching putting comprising providing information correlating backswing distance to the distance a golf ball should travel on a relatively flat surface, and providing

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corresponding visual indicators (indicia 16) in proximity to a chosen putting stroke path (11) to enable a user to properly perceive the length of the backswing.

Claim 36 is rejected under 35 U.S.C. 102(b) as being anticipated by Cook. Cook discloses in Figure 1 and in column 3, line 12 to column 4, line 67 44 of the specification a method of teaching putting comprising providing information correlating backswing distance to the distance a golf ball should travel on a relatively flat surface, and providing corresponding visual indicators (indicia 62) in proximity to a chosen putting stroke path to enable a user to properly perceive the length of the backswing.

Claim 39 is rejected under 35 U.S.C. 102(b) as being anticipated by Hoyt. Hoyt discloses in Figure 9 and in column 3, line 7 to column 4, line 66 a method of practicing putting comprising the steps of providing a device 12 having visual indicators indicating the amount of break for a given slope and putt distance and placing the device in the proximity of the putting line to enable a user to determine the break of a putt.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 10, 11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kueng in view of Dennesen. As discussed above, Kueng discloses a device for teaching putting having indicia thereon information indicating the appropriate

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backswing distance for a given distance a golf ball should travel on a relatively flat surface in proximity to a chosen putting stroke path (11) to enable a user to properly perceive the length of the backswing. Kueng fails to disclose that the device is flexible. However, flexible devices for putting practice are known, as disclosed for example in column 2, lines 29-30 of Dennesen. It would have been obvious to one of ordinary skill in the relevant art to modify the device disclosed by Kueng by providing a flexible mat for the purpose of facilitating compact storage. With respect to claims 2 and 4, the apparatus of Kueng comprises a flat putting mat 8. With respect to claims 10 and 11, while the precise distances claimed are not disclosed by Kueng, one of ordinary skill in the art would know how to determine appropriate putting backswing distances for given putt lengths. With respect to claim 14, Kueng further discloses an indicator 20 for indicating when a backswing by a user exceeds a recommended length.

Claims 1, 3, 5-8, 10, 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook in view of Dennesen. As discussed above, Cook discloses a device for teaching putting having indicia thereon information indicating the appropriate backswing distance for a given distance a golf ball should travel on a relatively flat surface in proximity to a chosen putting stroke path to enable a user to properly perceive the length of the backswing. Cook fails to disclose that the device is flexible. However, flexible devices for putting practice are known, as disclosed for example in column 2, lines 29-30 of Dennesen. It would have been obvious to one of ordinary skill in the relevant art to modify the device disclosed by Cook by providing a flexible apparatus for the purpose of facilitating compact storage. With respect to claim 3, it

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would have been obvious to one of ordinary skill to provide a member having various shapes, including that of a rod. The member of Cook is considered to be analogous and functionally equivalent to a rod having the same indicia. With respect to claims 10 and 11, while the precise distances claimed are not disclosed by Cook, one of ordinary skill in the art would know how to determine appropriate putting backswing distances for given putt lengths. With respect to claim 14, Cook further discloses an indicator 70 for indicating when a backswing by a user exceeds a recommended length.

Claims 12, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kueng in view of Dennesen, and further in view of Kim. Kueng as viewed in combination with Dennesen discloses all of the limitations of the claims with the exception of the indicators for indicating an overlong follow-through of a putting stroke. Kim discloses in Figure 1 and in column 2, lines 20-65 a device for teaching putting having a movable marker 7 for indicating the appropriate swing distance for a given putt length to enable a user to properly perceive the length of the swing. It would have been obvious to one of ordinary skill in the relevant art to modify the device disclosed by Kueng by providing indicators for indicating swing distance for the purpose of teaching the user proper follow-through during a putt.

Claims 12, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook in view of Dennesen, and further in view of Kim. Cook as viewed in combination with Dennesen discloses all of the limitations of the claims with the exception of the indicators for indicating an overlong follow-through of a putting stroke. Kim discloses in Figure 1 and in column 2, lines 20-65 a device for teaching putting

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having a movable marker 7 for indicating the appropriate swing distance for a given putt length to enable a user to properly perceive the length of the swing. It would have been obvious to one of ordinary skill in the relevant art to modify the device disclosed by Cook by providing indicators for indicating swing distance for the purpose of teaching the user proper follow-through during a putt.

### ***Allowable Subject Matter***

Claims 27-35, 37 and 38 are allowed.

Claims 9 and 16-26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 40 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kim, Lee, Florian, Foster, Dionne, Tai, Kwakkel, Montgomery, Hampel and Robinson disclose various golf training devices and methods.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (703) 305-0303. The examiner can normally be reached on M-F 9:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

KF



Kurt Fernston

January 23, 2004